

THE STATE SCHOOL AID ACT OF 1979 (EXCERPT)
Act 94 of 1979

388.1620 Foundation allowance per membership pupil; payments to districts, public school academies, and university schools; definitions.

Sec. 20. (1) For 2003-2004 and for 2004-2005, the basic foundation allowance is \$6,700.00 per membership pupil.

(2) The amount of each district's foundation allowance shall be calculated as provided in this section, using a basic foundation allowance in the amount specified in subsection (1).

(3) Except as otherwise provided in this section, the amount of a district's foundation allowance shall be calculated as follows, using in all calculations the total amount of the district's foundation allowance as calculated before any proration:

(a) Except as otherwise provided in this subsection, for a district that in the immediately preceding state fiscal year had a foundation allowance in an amount at least equal to the amount of the basic foundation allowance for the immediately preceding state fiscal year, the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance. However, for 2002-2003, the foundation allowance for a district under this subdivision is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus \$200.00.

(b) For a district that in the 1994-95 state fiscal year had a foundation allowance greater than \$6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of the increase in the basic foundation allowance for the current state fiscal year, as compared to the immediately preceding state fiscal year, or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b. For 2002-2003, for a district that in the 1994-95 state fiscal year had a foundation allowance greater than \$6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of \$200.00 or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b.

(c) For a district that has a foundation allowance that is not a whole dollar amount, the district's foundation allowance shall be rounded up to the nearest whole dollar.

(d) For a district that received a payment under former section 22c for 2001-2002, the district's 2001-2002 foundation allowance shall be considered to have been an amount equal to the sum of the district's actual 2001-2002 foundation allowance as otherwise calculated under this section plus the per pupil amount of the district's equity payment for 2001-2002 under former section 22c.

(4) Except as otherwise provided in this subsection, the state portion of a district's foundation allowance is an amount equal to the district's foundation allowance or \$6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district described in subsection (3)(b), the state portion of the district's foundation allowance is an amount equal to \$6,962.00 plus the difference between the district's foundation allowance for the current state fiscal year and the district's foundation allowance for 1998-99, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership

excluding special education pupils. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur. The \$6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and \$5,000.00, minus \$200.00.

(5) The allocation calculated under this section for a pupil shall be based on the foundation allowance of the pupil's district of residence. However, for a pupil enrolled in a district other than the pupil's district of residence, if the foundation allowance of the pupil's district of residence has been adjusted pursuant to subsection (19), the allocation calculated under this section shall not include the adjustment described in subsection (19). For a pupil enrolled pursuant to section 105 or 105c in a district other than the pupil's district of residence, the allocation calculated under this section shall be based on the lesser of the foundation allowance of the pupil's district of residence or the foundation allowance of the educating district. For a pupil in membership in a K-5, K-6, or K-8 district who is enrolled in another district in a grade not offered by the pupil's district of residence, the allocation calculated under this section shall be based on the foundation allowance of the educating district if the educating district's foundation allowance is greater than the foundation allowance of the pupil's district of residence. The calculation under this subsection shall take into account a district's per pupil allocation under section 20j(2).

(6) Subject to subsection (7) and section 22b(3) and except as otherwise provided in this subsection, for pupils in membership, other than special education pupils, in a public school academy or a university school, the allocation calculated under this section is an amount per membership pupil other than special education pupils in the public school academy or university school equal to the sum of the local school operating revenue per membership pupil other than special education pupils for the district in which the public school academy or university school is located and the state portion of that district's foundation allowance, or the sum of the basic foundation allowance under subsection (1) plus \$300.00, whichever is less. Notwithstanding section 101(2), for a public school academy that begins operations after the pupil membership count day, the amount per membership pupil calculated under this subsection shall be adjusted by multiplying that amount per membership pupil by the number of hours of pupil instruction provided by the public school academy after it begins operations, as determined by the department, divided by the minimum number of hours of pupil instruction required under section 101(3). The result of this calculation shall not exceed the amount per membership pupil otherwise calculated under this subsection.

(7) If more than 25% of the pupils residing within a district are in membership in 1 or more public school academies located in the district, then the amount per membership pupil calculated under this section for a public school academy located in the district shall be reduced by an amount equal to the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils, in the school fiscal year ending in the current state fiscal year, calculated as if the resident pupils in membership in 1 or more public school academies located in the district were in membership in the district. In order to receive state school aid under this act, a district described in this subsection shall pay to the authorizing body that is the fiscal agent for a public school academy located in the district for forwarding to the public school academy an amount equal to that local school operating revenue per membership pupil for each resident pupil in membership other than special education pupils in the public school academy, as determined by the department.

(8) If a district does not receive an amount calculated under subsection (9); if the number of mills the district may levy on a principal residence and qualified agricultural property under section 1211(1) of the revised school code, MCL 380.1211, is 0.5 mills or less; and if the district elects not to levy those mills, the district instead shall receive a separate supplemental amount calculated under this subsection in an amount equal to the amount the district would have received had it levied those mills, as determined by the department of treasury. A district shall not receive a separate supplemental amount calculated under this subsection for a fiscal year unless in the calendar year ending in the fiscal year the district levies 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a principal residence or qualified agricultural property.

(9) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than \$6,500.00 and that had fewer than 350 pupils in membership, if the district elects not to reduce the number of mills from which a principal residence and qualified agricultural property are exempt

and not to levy school operating taxes on a principal residence and qualified agricultural property as provided in section 1211(1) of the revised school code, MCL 380.1211, and not to levy school operating taxes on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, there is calculated under this subsection for 1994-95 and each succeeding fiscal year a separate supplemental amount in an amount equal to the amount the district would have received per membership pupil had it levied school operating taxes on a principal residence and qualified agricultural property at the rate authorized for the district under section 1211(1) of the revised school code, MCL 380.1211, and levied school operating taxes on all property at the rate authorized for the district under section 1211(2) of the revised school code, MCL 380.1211, as determined by the department of treasury. If in the calendar year ending in the fiscal year a district does not levy 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a principal residence or qualified agricultural property, the amount calculated under this subsection will be reduced by the same percentage as the millage actually levied compares to the 18 mills or the number of mills levied in 1993, whichever is less.

(10) Subject to subsection (4), for a district that is formed or reconfigured after June 1, 2002 by consolidation of 2 or more districts or by annexation, the resulting district's foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the resulting district who reside in the geographic area of each of the original or affected districts. The calculation under this subsection shall take into account a district's per pupil allocation under section 20j(2).

(11) Each fraction used in making calculations under this section shall be rounded to the fourth decimal place and the dollar amount of an increase in the basic foundation allowance shall be rounded to the nearest whole dollar.

(12) State payments related to payment of the foundation allowance for a special education pupil are not calculated under this section but are instead calculated under section 51a.

(13) To assist the legislature in determining the basic foundation allowance for the subsequent state fiscal year, each revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b, shall calculate a pupil membership factor, a revenue adjustment factor, and an index as follows:

(a) The pupil membership factor shall be computed by dividing the estimated membership in the school year ending in the current state fiscal year, excluding intermediate district membership, by the estimated membership for the school year ending in the subsequent state fiscal year, excluding intermediate district membership. If a consensus membership factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(b) The revenue adjustment factor shall be computed by dividing the sum of the estimated total state school aid fund revenue for the subsequent state fiscal year plus the estimated total state school aid fund revenue for the current state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund and excluding money transferred into that fund from the countercyclical budget and economic stabilization fund under section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, by the sum of the estimated total school aid fund revenue for the current state fiscal year plus the estimated total state school aid fund revenue for the immediately preceding state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund. If a consensus revenue factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(c) The index shall be calculated by multiplying the pupil membership factor by the revenue adjustment factor. However, for 2004-2005, the index shall be 1.00. If a consensus index is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(14) If the principals at the revenue estimating conference reach a consensus on the index described in subsection (13)(c), the basic foundation allowance for the subsequent state fiscal year shall be at least the amount of that consensus index multiplied by the basic foundation allowance specified in subsection (1).

(15) If at the January revenue estimating conference it is estimated that pupil membership, excluding intermediate district membership, for the subsequent state fiscal year will be greater than 101% of the pupil membership, excluding intermediate district membership, for the current state fiscal year, then it is the intent

of the legislature that the executive budget proposal for the school aid budget for the subsequent state fiscal year include a general fund/general purpose allocation sufficient to support the membership in excess of 101% of the current year pupil membership.

(16) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than \$6,500.00, that had fewer than 7 pupils in membership in the 1993-94 state fiscal year, that has at least 1 child educated in the district in the current state fiscal year, and that levies the number of mills of school operating taxes authorized for the district under section 1211 of the revised school code, MCL 380.1211, a minimum amount of combined state and local revenue shall be calculated for the district as provided under this subsection. The minimum amount of combined state and local revenue for 1999-2000 shall be \$67,000.00 plus the district's additional expenses to educate pupils in grades 9 to 12 educated in other districts as determined and allowed by the department. The minimum amount of combined state and local revenue under this subsection, before adding the additional expenses, shall increase each fiscal year by the same percentage increase as the percentage increase in the basic foundation allowance from the immediately preceding fiscal year to the current fiscal year. The state portion of the minimum amount of combined state and local revenue under this subsection shall be calculated by subtracting from the minimum amount of combined state and local revenue under this subsection the sum of the district's local school operating revenue and an amount equal to the product of the sum of the state portion of the district's foundation allowance plus the amount calculated under section 20j times the district's membership. As used in this subsection, "additional expenses" means the district's expenses for tuition or fees, not to exceed \$6,500.00 as adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and \$5,000.00, minus \$200.00, plus a room and board stipend not to exceed \$10.00 per school day for each pupil in grades 9 to 12 educated in another district, as approved by the department.

(17) For a district in which 7.75 mills levied in 1992 for school operating purposes in the 1992-93 school year were not renewed in 1993 for school operating purposes in the 1993-94 school year, the district's combined state and local revenue per membership pupil shall be recalculated as if that millage reduction did not occur and the district's foundation allowance shall be calculated as if its 1994-95 foundation allowance had been calculated using that recalculated 1993-94 combined state and local revenue per membership pupil as a base. A district is not entitled to any retroactive payments for fiscal years before 2000-2001 due to this subsection.

(18) For a district in which an industrial facilities exemption certificate that abated taxes on property with a state equalized valuation greater than the total state equalized valuation of the district at the time the certificate was issued or \$700,000,000.00, whichever is greater, was issued under 1974 PA 198, MCL 207.551 to 207.572, before the calculation of the district's 1994-95 foundation allowance, the district's foundation allowance for 2002-2003 is an amount equal to the sum of the district's foundation allowance for 2002-2003, as otherwise calculated under this section, plus \$250.00.

(19) For a district that received a grant under former section 32e for 2001-2002, the district's foundation allowance for 2002-2003 and each succeeding fiscal year shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of 100% of the amount of the grant award to the district for 2001-2002 under former section 32e divided by the number of pupils in the district's membership for 2001-2002 who were residents of and enrolled in the district. Except as otherwise provided in this subsection, a district qualifying for a foundation allowance adjustment under this subsection shall use the funds resulting from this adjustment for at least 1 of grades K to 3 for purposes allowable under former section 32e as in effect for 2001-2002. For an individual school or schools operated by a district qualifying for a foundation allowance under this subsection that have been determined by the department to meet the adequate yearly progress standards of the federal no child left behind act of 2001, Public Law 107-110, in both mathematics and English language arts at all applicable grade levels for all applicable subgroups, the district may submit to the department an application for flexibility in using the funds resulting from this adjustment that are attributable to the pupils in the school or schools. The application shall identify the affected school or schools and the affected funds and shall contain a plan for using the funds for specific purposes identified by the district that are designed to reduce class size, but that may be different from the purposes otherwise allowable under this subsection. The department shall approve the application if the department determines that the purposes identified in the plan are reasonably designed to reduce class size. If the department does not act to approve or disapprove an application within 30 days after it is submitted to the department, the application is considered to be approved. If an application for flexibility in using the funds is approved, the district may use the funds identified in the application for any purpose identified in the plan.

(20) For a district that is a qualifying school district with a school reform board in place under part 5a of the revised school code, MCL 380.371 to 380.376, the district's foundation allowance for 2002-2003 shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of \$15,000,000.00 divided by the district's membership for 2002-2003. If a district ceases to meet the requirements of this subsection, the department shall adjust the district's foundation allowance in effect at that time based on a 2002-2003 foundation allowance for the district that does not include the 2002-2003 adjustment under this subsection.

(21) Payments to districts, university schools, or public school academies shall not be made under this section. Rather, the calculations under this section shall be used to determine the amount of state payments under section 22b.

(22) If an amendment to section 2 of article VIII of the state constitution of 1963 allowing state aid to some or all nonpublic schools is approved by the voters of this state, each foundation allowance or per pupil payment calculation under this section may be reduced.

(23) As used in this section:

(a) "Combined state and local revenue" means the aggregate of the district's state school aid received by or paid on behalf of the district under this section and the district's local school operating revenue.

(b) "Combined state and local revenue per membership pupil" means the district's combined state and local revenue divided by the district's membership excluding special education pupils.

(c) "Current state fiscal year" means the state fiscal year for which a particular calculation is made.

(d) "Immediately preceding state fiscal year" means the state fiscal year immediately preceding the current state fiscal year.

(e) "Local school operating revenue" means school operating taxes levied under section 1211 of the revised school code, MCL 380.1211.

(f) "Local school operating revenue per membership pupil" means a district's local school operating revenue divided by the district's membership excluding special education pupils.

(g) "Membership" means the definition of that term under section 6 as in effect for the particular fiscal year for which a particular calculation is made.

(h) "Principal residence" and "qualified agricultural property" mean those terms as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

(i) "School operating purposes" means the purposes included in the operation costs of the district as prescribed in sections 7 and 18.

(j) "School operating taxes" means local ad valorem property taxes levied under section 1211 of the revised school code, MCL 380.1211, and retained for school operating purposes.

(k) "Taxable value per membership pupil" means taxable value, as certified by the department of treasury, for the calendar year ending in the current state fiscal year divided by the district's membership excluding special education pupils for the school year ending in the current state fiscal year.

History: Add. 1993, Act 336, Eff. Mar. 15, 1994;—Am. 1994, Act 172, Imd. Eff. June 17, 1994;—Am. 1994, Act 283, Imd. Eff. July 12, 1994;—Am. 1994, Act 360, Imd. Eff. Dec. 22, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 24, Imd. Eff. June 16, 1997;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 141, Eff. Jan. 1, 2004;—Am. 2003, Act 158, Imd. Eff. Aug. 11, 2003;—Am. 2004, Act 351, Imd. Eff. Sept. 30, 2004.

Compiler's note: The words "1/3 of" in subsection (20)(a)(i)(Q), as amended by Act 283 of 1994, were vetoed by the governor on July 9, 1994.

The last sentence of subsection (9), and subsections (18) and (19), as amended by Act 360 of 1994, were vetoed by the governor on December 22, 1994.

Subsection (11), as amended by Act 130 of 1995, was vetoed by the governor on June 30, 1995.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

Subsection (20), as amended by Act 158 of 2003, was vetoed by the governor on August 11, 2003. The text of subsection (20) set forth above in this section (MCL 388.1620) derives from Act 141 of 2003. In the veto message accompanying her veto of certain items in Enrolled House Bill 4401 (Act 158 of 2003), the governor stated, "I have vetoed amendatory language in Section 20(20) that stops the annual \$15 million supplemental payment to Detroit Public Schools at the end of fiscal year 2003. Existing language clearly indicates that this supplemental funding is intended to continue as long as the reform board remains in place. I intend to honor that commitment."

Enacting section 1 of Act 351 of 2004 provides:

“Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2004-2005 is estimated at \$11,173,900,000.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at \$11,113,650,400.00.”